

REMARKS

The present amendments and remarks are responsive to an Official Action having a mailing date of June 3, 2003. The Official Action has been made final. Claims 6-11 are pending. Claims 6-11 are rejected. Claim 8 is cancelled. Reconsideration and withdrawal of the rejections are respectfully requested for the remaining claims.

The specification is hereby corrected to replace the numeral "1" with the letter "L" at several locations in paragraphs 24 and 25. These changes are made to properly reference the "distance L" between the articles, as shown in Figure 1.

In the pending Official Action, the Examiner has objected to claim 8, stating that claim 8 is redundant because the subject matter has "already been incorporated within claim [6]." See Official Action, page 2, lines 3-5. As noted above, claim 8 has been cancelled.

The Examiner further rejected claims 6-8 and 10-11 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,353,916 to *Lehmann*.

The Examiner considered that *Lehmann* teaches "a method and apparatus for controlling articles (5) within a continuous flow ... comprising at least one shifting unit (3) for controlled shifting of the flow into one or more selectable paths of the outgoing feeder track (8)." See Official Action, page 2, line 15 - page 3, line 2, (emphasis added).

In actuality, the "shifting unit" cited by the Examiner is a *feeding device* that moves the articles from the outgoing track section (8) to a revolving turret (1) having a single path. See *Lehmann*, column 2, lines 4-49.

Thus, *Lehmann* does not provide a shifting unit for controlling the shifting of the articles into a plurality of different paths, as does the Applicant's invention. Instead,

Lehmann's apparatus first provides a separation between articles using a higher-speed feeder track (8), then moves the articles to their destinations via the feeding device (3) to move the articles to a revolving turret (1) which - again - has a single path of movement. See *Lehmann*, column 2, lines 4-49. Contrarily, Applicant's invention accelerates the speed of the articles and shifts them to one of a plurality of alternative outgoing feeder tracks using a shifting unit incorporating a conveyor belt pivotally mounted to be directionally controlled. This conveyor belt operates at a higher speed than the input flow. See specification page 5, line 28 - page 6, line 34. Therefore, Applicant's invention, as claimed in amended claims 6, 10 and 11, includes a shifting unit that separates and re-routes the articles into a plurality of selectable paths using a higher speed belt that can be pivoted, whereas *Lehmann* utterly fails to disclose such a shifting unit.

Furthermore, in an embodiment, Applicant's invention includes a shifting unit that can be shifted between a number of positions, each of which corresponds to an outgoing flow path. See Figure 1, item 6. *Lehmann* does not teach any such shifting unit. In contrast to Applicant's shifting unit, *Lehmann* instead teaches an outflow conveying path that is stationary and cannot be shifted in the horizontal or vertical plane, thereby providing only a single outgoing flow path. See *Lehmann*, Figure 1, item 8 and column 2, lines 39-49.

Applicant herein has amended independent claims 6, 10 and 11 to clarify Applicant invention's use of multiple flow paths.

Additionally, because Applicant's invention provides for a separation of the articles passing the shifting unit, it facilitates counting the articles as they pass the shifting unit. See Specification, page 7, lines 31-33. For this reason,

Applicant has herein added new claims 12 and 13 to include this feature.

Applicant's invention also provides not only for controlling flow along a plurality of horizontal paths, but also for controlling flow along a plurality of vertical paths. See specification, page 9, lines 21-27. Applicant has herein added new claims 14 and 15 to include these embodiments.

Moreover, because Applicant's invention allows for very quick shifting of the shifting unit between different paths of an outgoing track, it is advantageous for creating bundles of articles. These bundles may be formed because repetitive shifting of the shifting unit between the different paths allows the articles to be arrayed into rows and columns, which may then be associated into bundles. See specification, page 9, line 30 - page 10, line 6. Applicant has added claim 16 to include this feature.

The Examiner also rejected claim 9 under 35 U.S.C. §103(a), as being obvious in view of *Lehmann*.

The Examiner considered that *Lehmann* "fails to show a variable speed feeding conveyor", and that it would have been obvious to one of ordinary skill in the art "to replace the incoming feeder track of *Lehmann's* invention with a variable speed feeding conveyor ..." See Official Action, page 3, lines 18-20. Applicant respectfully disagrees.

In addition to the fact that claim 9 is allowable for the reasons discussed above in connection with claim 6, Applicant's claim 9 recites "incoming track arranged for a variable speed, while the shifting unit is arranged for a constant speed," specification, claim 9, lines 2-3 (emphasis added).

As noted above, *Lehmann* does not disclose a "shifting unit" as in Applicant's invention. Thus, it cannot be obvious to vary the speed of the incoming feeder track while maintaining

a constant speed for the "shifting unit", since no such "shifting unit" is disclosed in *Lehmann*. Therefore, Applicant respectfully maintains that rejection of claim 9 has been successfully transversed, and the rejection should be withdrawn.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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